

Regular Session Minutes - Selectmen's Meeting
Selectmen's Meeting Room, Town Hall
Monday, July 18, 2011, 7:30 p.m.

PRESENT: Catherine B. Cordes, Acting Chair, William S. Moonan, Michael A. Rosenberg, Mark Siegenthaler, and Town Manager Richard T. Reed

ABSENT: Walter J. St. Onge III

ALSO PRESENT: Police Chief Robert Bongiorno and his family, friends and colleagues; Attorney Philip Lombardo and his client Farrukh Chaudhry, Manager of T.U.F. Enterprise, LLC and also accompanied by his family and supporters; Andrew Borella, Genetti's Package Store; Suzy Enos, volunteer candidate; Victor Garofalo, Town Treasurer; Richard Warrington, Public Works Director; Bruce Murphy and John Linz, Assessors; Kim Siebert, Energy Task Force; Jessica Porter, Assistant Town Manager; Barbara Perry, Finance Committee; and Arthur Katz, Bedford Minuteman reporter

12-001 Gathering for Police Chief Bongiorno

Due to the overflow crowd, the first part of the meeting was moved to the Multi-Purpose Room where the Selectmen, family, friends and colleagues gathered to welcome Robert Bongiorno, the new Police Chief.

12-002 Oath of Office/Ceremony

After being escorted by the Town's Police Color Guard Team, Town Clerk Doreen Tremblay administered the Oath of Office to Police Chief Robert Bongiorno. In his opening remarks, Chief Bongiorno welcomed all present and thanked his family, colleagues, and friends in helping him throughout his career as a police officer. He also thanked the Selectmen and Town Manager for the opportunity to serve the Town of Bedford.

The Selectmen then proceeded to the Selectmen's Meeting Room for the regular business.

Acting Chair Cordes called the meeting to order at 7:30 p.m.

12-003 Public Hearing – Request for Wine & Malt Package Store License

Attorney Philip Lombardo and his client Farrukh Chaudhry were present to request a wine and malt package store license. Attorney Lombardo informed the Selectmen that Mr. Chaudhry operates a family-owned gas station and convenience store at 349 The

Great Road and explained that there used to be a Dunkin Donuts located at this site, but due to a slowdown in sales, they moved out and he has been unable to get another replacement. Mr. Chaudhry is seeking another method to increase revenue and feels that selling beer and wine would be a natural fit since they already sell gasoline, tobacco products, lottery tickets, and groceries. The store will have a dedicated area for the beer and wine cases so that it will be highly visible from the checkout counter. Rather than advertising, it is their intention to neatly stack some beer cases in the window area so that patrons pumping gasoline can see the alcohol inside and will come in to make a purchase. The applicants do not expect their store to become a destination stop.

Attorney Lombardo further explained that Mr. Chaudhry has experience with retail liquor sales and is Beverage Alcohol Training (BAT) certified. Mr. Chaudhry understands the legal responsibilities and will continue to take further alcohol training ensuring that everyone who sells at the store is also BAT certified. Their convenience store has passed all Board of Health stings for tobacco sales. The family-owned business will purchase a state-of-the-art identification verification system if the license is granted and the Selectmen request it.

Attorney Lombardo indicated that in accordance with the latest census, the Town of Bedford is allowed five wine and malt retail licenses and Bedford has not issued any in this category. Attorney Lombardo indicated that the nearby hotels have indicated that their patrons have often inquired as to the location of the nearest package store within walking distance. He added that a plus of granting the license would be increased sales which will provide increased tax revenue for the Town. He assured the Selectmen that he was not trying to put any other package store out of business.

For the record, Mr. Lombardo presented 180 signatures in favor of the license being issued, most of which are Bedford residents.

At this point, Acting Chair Cordes read Section VII – Considerations for Approval of New License or Transfer of the Alcohol Policy. The Selectmen questioned the hours of operation of the convenience store, reviewed the floor plan, and asked for the difference between Sections 12 and 15 of the Alcoholic Beverage Control Commission (ABCC) rules on license quotas according to the census. Section 15 licenses provides for alcohol to be sold at off-premise licensed stores which means alcohol cannot be consumed on the premises. Mr. Chaudhry noted that the store opens at 5:00 a.m. The state does not allow retail sales of alcohol before 8:00 a.m. Sunday sales require an additional annual fee to the Town, but a separate license is not issued. Mr. Moonan noted that selling alcohol in gas stations is difficult and had some concern.

Attorney Lombardo noted that they feel this request meets the criteria of Section VII, Subsection 3 because the convenience store offers a variety of products and is unique because it is easy to get in and out very quickly, something that is not offered in this town. As far as the densely populated retail area in Subsection 5, he deferred to the Selectmen to define that, but assumed Ms. Cordes was referring to The Great Road.

Attorney Lombardo added that this request does not duplicate what is already there and that it is not their intention to sell high end wine or beer. Mr. Moonan asked if the alcohol would be sold cold. They responded in the affirmative.

Ms. Cordes asked if there were surveillance cameras in the parking lot. Mr. Chaudhry responded that there are TV cameras facing the gas pumps, but they do not record. Mr. Chaudhry stated they would be willing to install security cameras if asked to do so.

Chair Cordes opened the hearing to the public for questions or comments.

Andrew Borella, Manager of Genetti's Package Store, commented that the last time there was a request for a wine and malt license by Whole Foods, the Selectmen determined that the Town was being served by three package stores and that was sufficient. He also commented that there was a public safety issue with the location of the gas station; he feels it is difficult crossing the road into oncoming traffic to get into the gas station during rush hour. His third concern that he found personally difficult to deal with was late night sales of alcohol. He found that the same customers who came in earlier will come back later and try to purchase additional alcohol. Mr. Borella also was concerned with the Selectmen setting a precedent issuing a license to a gas station because there are five gas stations located on The Great Road and they may all come in and ask for a license. He also warned that sales of alcohol are down 15% in this economy.

Amjad Chaudhry, Hyannis, MA, vouched for his nephew's experience, ambition, and responsibility as a manager. He assured that his nephew would abide by the rules of the state and Town. He asked the Selectmen to please consider his application and to give him a chance to be a productive business owner in Bedford.

Mr. Chaudhry noted that there are 20 lights on the canopy over the gas pumps and the entry area is well lit. It is easy to get in and out of and there is also a street light on the corner. He hoped the Selectmen would not vote against the license for the safety reason Mr. Borella mentioned.

Town Manager Reed asked Attorney Lombardo for the certification form verifying that he mailed the notice of the public hearing to the abutters. Attorney Lombardo was unsure that he complied and offered to look into it in the morning.

Mr. Reed made note of the hours of the existing package store licenses in Bedford as Monday-Saturday, 9:00 a.m. to 10:00 p.m. and Sunday 12:00 p.m. to 9:00 p.m. State law allows sales from 8:00 a.m. to 11:00 p.m. Monday through Saturday. Sales of alcohol cannot begin before noon on Sunday.

Mr. Rosenberg made a motion to close the public hearing. Mr. Moonan seconded the motion.

Attorney Lombardo stated that he cannot guarantee that he mailed the notices to the abutters.

Mr. Rosenberg amended the motion to continue the public hearing to August 15, 2011 at 7:30 p.m. Mr. Moonan seconded the motion.

The motion passed 4-0-0.

12-004 Appointment Interview – ad hoc Bedford Energy Task Force

Chair Cordes read the Energy Task Force Charge for Suzy Enos' information.

Ms. Enos relayed that she moved here 1.5 years ago and has always been active in volunteering in green environmental concerns. In Connecticut she was part of an organization that would give public tours of different sorts of houses that were either solar powered or those with super insulation to teach people different ways to save energy. Ms. Enos stated that she is very interested in performing community service. Having lived in several countries, Ms. Enos would like to bring some knowledge of how other countries deal with energy conservation. She and her husband are in the process of converting their house to a zero energy house. She explained that a zero energy house uses solar power so that heat, hot water and electricity are all free. Super insulating the house first helps with the solar power. She offered a tour to the Selectmen when the house is completely finished. Ms. Enos confirmed that she has attended three meetings of the committee.

At this time, Ms. Cordes explained the Open Meeting Law, the Conflict of Interest Law, the Rules of Civil Discourse, and leadership development. She asked if Ms. Enos would be willing to act as Chair of the committee once she settles in. Ms. Enos responded that she would be happy to once she got used to how the committee operates.

The Selectmen agreed that Ms. Enos is a qualified candidate for the Energy Task Force and thanked her for her interest in volunteering.

Mr. Moonan made a motion to appoint Suzy Enos, 43 Hillside Avenue, to the ad hoc Bedford Energy Task Force to a term ending June 30, 2012. Mr. Rosenberg seconded the motion.

The motion passed 4-0-0.

12-005 Appointments – Cultural Council Revision and Sign Bylaw Review Committee

Town Manager Reed explained that the Selectmen recently appointed Barbara Purchia to the Cultural Council to fill a vacancy. The state law reads that a member can serve two three-year terms. The current appointment date will not allow for this; therefore, staff recommends that the Selectmen rescind the vote taken on April 19, 2011 and make a new motion to appoint Barbara Purchia to a term ending June 30, 2014.

Mr. Rosenberg made a motion to rescind the vote of the Selectmen taken on April 19, 2011 appointing Barbara Purchia to the Cultural Council to a term ending June 30, 2012. Mr. Moonan seconded the motion.

The motion passed 4-0-0.

Mr. Siegenthaler made a motion to appoint Barbara Purchia to the Cultural Council for a term ending June 30, 2014. Mr. Rosenberg seconded the motion.

The motion passed 4-0-0.

Town Manager Reed stated that the original intent of the ad hoc Sign Bylaw Review Committee would be to have 7 members, including one Selectman. He advised that the Selectmen need to determine which member it will be and that it can be done at the next meeting. Mr. Reed indicated that the other four members ready to be appointed are: Pamela Brown, Chamber of Commerce; Kevin Latady, Historic District Commission; Lisa Mustapich, Planning Board; and Jeffrey Cohen, Zoning Board of Appeals. The two at-large citizen members have not been chosen.

Mr. Moonan made a motion to appoint Pamela Brown, Kevin Latady, Lisa Mustapich, and Jeffrey Cohen to the ad hoc Sign Bylaw Review Committee to terms ending June 30, 2012. Mr. Siegenthaler seconded the motion.

The motion passed 4-0-0.

12-006 Bond Sale

Town Treasurer Victor Garofalo requested authorization for a \$3,297,000 general obligation bond sale at 2.34% net interest cost. He indicated that this is the lowest interest rate the Town has received in the past four years. The bond projects include: road resurfacing, water bonds, fire mini pumper, the completion of North Road, water meter improvement, and purchasing an ambulance. After the bond sale, the Town will have \$1,634,727 in issued, but unauthorized, debt. Mr. Garofalo does not anticipate another bond sale for at least two years. This sale will allow for previously approved projects that have not yet commenced.

Mr. Siegenthaler made a motion to authorize the sale of \$3,297,000 in general obligation municipal bonds in accordance with the memorandum provided - item #12-006. Mr. Moonan seconded the motion.

The motion passed 4-0-0.

12-007 FY12 Water and Sewer Rates Adoption

Chair Cordes commented that this evening the Selectmen received additional information on the proposed water and sewer rates that was not included in the packets.

Town Manager Reed commented that at the June 27th meeting, the Selectmen reviewed the preliminary water and sewer rates and due to the increase in water

consumption, recommended reduction of the R1 and R2 rates. Public Works has proposed a reduction in the R1 rates from \$1.10 to \$1.00 for FY12 and a reduction in the R2 rates from \$5.30 to \$4.80. All other rates will remain the same. The water consumption for last year showed an 8.3% reduction so each household saw a savings in the range of \$317.15 to \$291.00 for water only. Sewer rates remain unchanged at R1 \$3.30 and R2 \$9.70. The final MWRA sewer assessment for Bedford is \$2,951,458, down slightly from the previously estimated amount of \$2,987,016.

Mr. Siegenthaler made a motion to approve the FY12 water and sewer rates as follows: Water R1 \$1.00 and R2 \$4.80; Sewer R1 \$3.30 and R2 \$9.70; and the base charges and R3 to remain the same. Mr. Rosenberg seconded the motion.

The motion passed 4-0-0.

12-008 Approval – Refuse and Recycling Contract

Public Works Director Richard Warrington noted that Allied Waste will eventually change their name to Republic. Mr. Reed announced that this contract is based upon every household receiving a 48-gallon cart and provisions for a recycling rebate for newspaper. He noted that Town services remain the same as far as recycling and white goods collection. He noted that every household will receive a free 48-gallon container, but going forward, the Selectmen need to decide the cost of overflow bags and an additional 48-gallon cart if a resident requests one. The new five-year contract commences as of July 1, 2011 and ends June 30, 2016 and the new system will begin in October.

Mr. Warrington displayed a new 48-gallon refuse cart for the Selectmen to view and they were very pleased with the size and quality of the cart. He added that the carts have a 10-year warranty. There will be repair kits on each of the trash trucks and most repairs can be done by the driver who will be trained in repairs. If a cart is too damaged, they will bring the resident a new one. Each container will have a serial number embedded which will be entered into a database with the homeowner's name and address so that if the cart is lost or stolen, Allied Waste can identify who the rightful owner is.

Mr. Rosenberg made a motion to approve the contract with Allied Waste Services for refuse and recycling services effective July 1, 2011 through June 30, 2016, as corrected. Mr. Siegenthaler seconded the motion.

The motion passed 4-0-0.

Mr. Moonan commented that he was glad they were able to come to a good ending, but was disappointed in the process. He suggested that a major policy like this should have started at the Selectmen level for discussion first to determine the direction they wanted to go; data gathering should have happened first; public hearings should have been held after the decision has been made on what we wanted; and a Request for Proposals could have gone out which may have led to a different type of bidding. He

hoped in the future when these types of decisions are necessary, that it starts with the Selectmen who are the policy-making body.

12-009 Reserve Fund Transfer

Town Manager Reed noted that this request for a Reserve Fund Transfer has already been approved by the Finance Committee.

Mr. Siegenthaler made a motion to approve the Reserve Fund Transfer in the amount of \$62,000 for the purchase of water. Mr. Rosenberg seconded the motion.

The motion passed 4-0-0.

12-010 Hazardous Tree Removal Project – Jenks Nature Trail Area

Town Manager Reed reviewed the memo describing the work that is proposed for the Jenks Trail for hazardous tree removal that was approved by Town Meeting in March. Staff feels the work falls within the definition of routine maintenance. There is an existing Memorandum of Agreement between the School Committee, the Library Trustees, and the Selectmen signed in 2005 regarding any work that might occur in the Jenks Trail area, an original farm pathway that emanated from The Great Road down through municipal campus. The Town entered into an agreement that states any proposed work in the area should be reviewed by the three committees – Library Trustees, School Committee, and Selectmen. The three committees are meeting Tuesday evening, July 19th at 7:00 p.m. which coincides with the Arbor Resource Committee meeting, to discuss the issue.

Mr. Rosenberg noted that tree removal authorization seems to come under Section B rather than Section C because 18% of the arbor resources in the whole area have been deemed hazardous, and he wondered at what point it does not become routine. Mr. Rosenberg asked that these three committees get together to discuss optional tree replacement. For the record, the Bedford Arbor Resource Committee has discovered some discrepancies in the map, but none that seem to affect the trees marked for removal. This work should be done before school starts. Mr. Reed asked what the reason was for this to be on the agenda this evening; Mr. Rosenberg replied that the purpose was for the Selectmen to have an opportunity to raise any questions about the process. Mr. Moonan stated that some trees look like recent plantings and asked what happened to them and what could be done to prevent tree failure in the future. Mr. Warrington confirmed that there was a memorial tree that the schools wanted planted during the wrong time of year and it failed, so it was taken down for safety reasons. He advised that fall is the best time to plant trees and he intends to plant better quality trees. Eleven of the current 24 trees are Norway maples, which are an invasive tree; they are failing and in severe decline. Mr. Reed advised that a vote will not be necessary this evening.

12-013 Discussion – Vacancy on Board of Assessors

Assessors Bruce Murphy and John Linz were present to request a replacement on the Board of Assessors due to the recent resignation of Sheldon Moll. Chair Cordes read from the Town's Bylaw on the proper procedure for seeking a replacement on an elected board. The Assessors asked for suggestions on recruitment. Town Manager Reed offered that in the past when there was a vacancy on an elected board, they did not go through a screening process. All interested candidates came before the Selectmen and the board with the vacancy for consideration. He added that historically, a notice is sent out to the newspaper to seek interest from the public and they would interview those that apply. The Assessors can also look for interested candidates independently. Typically, interested candidates send in a letter of interest, resume, and Questionnaire for Volunteers. Mr. Reed noted that staff had already sent a notice to the newspaper.

Mr. Linz stated that this position requires a lot of dedication and course work. They would like to get someone who would fit in and do the work quickly. He suggested that it would be useful to be certified but not immediately. Chair Cordes stated that it would behoove everyone to encourage people to apply. She advised that they should have a series of questions to ask the candidates and that it should be done by the end of August. The Assessors stated that their next two meetings are scheduled for August 3rd and August 10th. The joint meeting will be scheduled for either August 15th or August 29th. Mr. Rosenberg suggested that the announcement be put on the Town's website.

For the record, Assessors Linz and Murphy noted that they are deeply saddened that Sheldon Moll was unable to complete his term on the board and his colleagues wished him well.

12-011 Regulatory Agreement Authorization – Pulte Homes, Hartwell Farms

Town Manager Reed referred to the memo from Assistant Town Manager Jessica Porter regarding the Regulatory Agreement for Hartwell Farms being developed by Pulte Homes. As a special permit in the residence D zone, they are required to have 15% of the units listed as affordable under the Massachusetts guidelines. Once the Regulatory Agreement is finalized and approved by the Department of Housing and Community Development, the Selectmen Chair will be required to endorse it. Ms. Porter requested a vote of the Selectmen authorizing the Chair to sign the Regulatory Agreement. Town Counsel has approved the Regulatory Agreement as to form.

Mr. Moonan made a motion to authorize the Selectmen Chair to sign the final Regulatory Agreement on behalf of the Town. Mr. Rosenberg seconded the motion.

The motion passed 4-0-0.

12-012 Town Center Lease Renewal – Iskwelahang Pilipino

Town Manager Reed announced that the lease with Iskwelahang Pilipino dated August 30, 2010 has two one-year lease extension options and that the Selectmen have the discretion on whether they would like to renew the lease commencing September 1, 2011. Mr. Moonan added that the lessees are an excellent tenant and he recommends approval of the lease renewal option.

Mr. Moonan made a motion that the Selectmen exercise the option to extend the Iskwelahang Pilipino Lease in the Town Center building for an additional one year beginning September 1, 2011 through August 31, 2012 as specified in the current lease dated August 30, 2010. Mr. Siegenthaler seconded the motion.

The motion passed 4-0-0.

12-013 Discussion (Continued) – Volunteer Coordinating Committee Update

Chair Cordes reported that due to a series of miscommunications with the Finance Committee Appointing Authority, the Volunteer Coordinating Committee resigned. They are in continuing discussion with the former members and expect that there will be more information to report at the next Selectmen's meeting. Ms. Cordes anticipates that they will work together to resolve the issues to each committee's satisfaction.

12-014 Annual Goal Setting

Mr. Reed noted that agenda item 12-014 was submitted by Mr. Rosenberg. Ms. Cordes submitted her list dated July 18, 2011 which included goals from former versions dating back to 2008. She indicated some of the goals have already been met and completed. Mr. Reed asked for the remaining Selectmen to submit their goals soon. The meeting date is scheduled for August 8, 2011.

12-015 Miscellaneous Action Items - Chapter 268A, Section 20(b) Exemption

Mr. Siegenthaler made a motion to grant a Chapter 268A, Section 20(b) Exemption to Jeremy D. Royds as a Program Instructor. Mr. Rosenberg seconded the motion.

The motion passed 4-0-0.

12-016 Discussion – Rasky Baerlein Strategic Communications

Town Manager Reed noted that the Rasky Baerlein contract is broken down into phases. The first phase of the contract ends July 31, 2011. It is at the Town's sole discretion if they want to continue with the next phase of the contract. The Selectmen need to decide if they want to continue their service for the next six months. He inferred that this may be a discussion for the strategic communication working group to have because they handle the military funding for Hanscom students. Ms. Cordes suggested that staff try to set up a morning meeting.

12-017 Minutes

Mr. Rosenberg made a motion to approve the Regular Session Minutes of Monday, June 13, 2011, as written. Mr. Moonan seconded the motion.

The motion passed 4-0-0.

12-018 Town Manager's Report

Mr. Reed announced that he received word from the Massachusetts Department of Energy Resources that Bedford has been designated as a Green Community which makes the Town eligible for state grants in the amount of \$148,000 to fund energy-related projects for the Town.

Mr. Reed provided a summary of performance for local receipts based on FY11, which indicates that Bedford will receive 14.6% over estimates for local receipts; this is good news from a financial standpoint. The excess in receipts will be returned to free cash. Chair Cordes asked why the recap estimate was so low. Mr. Reed responded that over the last several years the Town was earning a lot of interest income due to proceeds coming in for major capital projects, but that level of activity has decreased. The Town also reduced our local receipts estimates to reflect less interest income. Also included in local receipts are the estimates for bond premiums and those won't be included any longer. Mr. Rosenberg asked if there would be any further adjustments to fall in line with actual numbers. Mr. Reed responded that this is an ongoing analysis review process and what we have to estimate going into Annual Town Meeting is based upon the data we have at that time (around 8 months' worth). We have completed the fiscal year and things are trending a bit better. We normally look at the original receipts estimates and determine whether we want to increase them or make some adjustments that could be done at Special Town Meeting; then the tax rate process takes place. There could be any number of adjustments that could be made. We will look at that with the Finance Committee and Fiscal Planning and Coordinating Committee in the next few months.

Mr. Reed announced that the final state budget has been approved for the fiscal year. For the Annual Town Meeting model planning purposes we ended up using an overall cherry sheet that was \$10,948 less than what Bedford will actually receive.

12-019 Open Discussion

Mr. Moonan inquired as to the status of the Bedford Cable Access Television contract. Mr. Reed stated that he would look at it in the next few weeks.

Mr. Moonan commented that he hoped the minutes would be submitted in a more timely fashion, especially during the summer months. He stated that according to the state requirement, the minutes are supposed to be provided within 10 days after a meeting. Mr. Reed corrected him by stating that if there were a request for the set of minutes, the

recording secretary had 10 days to produce a draft, but generally, there is no legal time frame to produce the minutes.

Mr. Moonan stated that he received a negative phone call related to having to cross the street on The Great Road during Blake Block construction and another complaint that the traffic light at Great Road and South Road is not pedestrian friendly. He asked who controls that light. Town Manager Reed noted that although it is a municipal signal, it is subject to the state's permitting process. Any phasing changes need to be approved by the Massachusetts Department of Transportation. Being that the light is an older version, it changes once every complete cycle if a pedestrian pushes the light; but it is working the way it was designed. If you want to cross one street then the next, you have an extremely long wait between cycles. Mr. Reed reported that a design consultant is already looking into it.

Mr. Rosenberg asked that a temporary postal box be put at that intersection. Mr. Moonan will discuss it with the postmaster.

Mr. Moonan asked Mr. Rosenberg for an update on the Fields Partnership. Mr. Rosenberg reported that they are drafting something and are happy to endorse it if he does the work, but in any event, he hopes to have something for the Selectmen to sign at the end of the summer.

Mr. Rosenberg asked the Town Manager to prepare a Finance Committee meeting schedule for the Selectmen.

**Mr. Moonan made a motion to adjourn. Mr. Siegenthaler seconded the motion.
The motion passed 4-0-0.**

The meeting ended at 10:00 p.m.